

CHARLES E. SHAW

IBLA 83-936

Decided June 25, 1984

Appeal from decision of Eastern States Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offers ES-25844 and ES-25845.

Affirmed.

1. Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases: Noncompetitive Leases

An oil and gas lease offer must be rejected when the land applied for has been leased to a senior offeror under a proper offer.

APPEARANCES: Charles E. Shaw, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Charles E. Shaw has appealed from a decision of the Eastern States Office, Bureau of Land Management (BLM), dated June 22, 1983, rejecting noncompetitive oil and gas lease offers ES-25844 and ES-25845.

On November 21, 1980, appellant and Stanley Blumenstein filed two noncompetitive oil and gas lease offers for various tracts of acquired land, totaling 5,369.60 acres, situated in Bland and Wythe counties, Virginia, pursuant to section 3 of the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. § 352 (1982). 1/ The land is within the Jefferson National Forest. In its June 1983 decision, BLM rejected appellant's lease offers because the land was already included in an outstanding noncompetitive oil and gas lease, ES-19550, issued to W. B. Newberry and Richard S. Gaddy on the basis of an offer "filed previously to the subject offer."

On July 21, 1978, Newberry and Gaddy had filed a noncompetitive oil and gas lease offer for various tracts of acquired land, totaling 1,176.40 acres, situated in Wythe County, Virginia. 2/ Effective July 1,

1/ Lease offer ES-25844 encompasses tracts J-195, J-196, J-284, J-530a, J-530b, J-552, J-643-I, and J-643-II. Lease offer ES-25845 encompasses tracts J-81, J-276-I, and J-572. By letter dated Mar. 24, 1981, appellant and Blumenstein withdrew certain tracts included in lease offer ES-25844, viz., J-195, J-196, J-530a, and J-530b, because of a conflict with previously filed offers.

2/ Lease offer ES-19550 encompassed tracts J-276-I, J-81, J-572, J-284, J-552, J-643-I, and J-643-II.

1983, a noncompetitive oil and gas lease was issued to Newberry and Gaddy covering the land requested in their lease offer. Prior to issuance of the lease, appellant had filed a protest, dated March 18, 1981, contending, in part, that lease offer ES-19550 "should be rejected" because the offerors had failed to disclose other parties in interest, viz., an overriding royalty interest granted to Shaw Petroleum, Inc., by written agreement, in violation of 43 CFR 3102.7 (1977). ^{3/} By decision dated May 10, 1982, BLM rejected lease offer ES-19550 for failure to disclose other parties in interest. In Richard S. Gaddy, 67 IBLA 373, 374 (1982), the Board vacated the May 1982 decision as to lease offer ES-19550 and remanded for "issuance of the lease, all else being regular." The Board concluded that lease offer ES-19550 "is for land not within any county named in the [February 3, 1978] agreement," which granted an overriding royalty interest to Shaw Petroleum, Inc. Id.

In his statement of reasons for appeal, appellant contends that lease "offer" ES-19550, which conflicts with lease offers ES-25844 and ES-25845 should be rejected for "the reasons stated in the protest letter," dated March 18, 1981. Appellant is apparently unaware that the reason given for rejection in his protest was summarily dismissed by the Board in Richard S. Gaddy, supra. We see no reason to depart from our holding therein.

[1] It is well established that, because a noncompetitive oil and gas lease may be issued only to the first-qualified applicant, under 30 U.S.C. § 226(c) (1982), a junior offer is properly rejected to the extent it includes land designated in a senior offer and subsequently leased to the senior offeror, where the junior offeror fails to provide valid reasons why the senior offer should be considered defective. James C. Stevenson, 77 IBLA 150 (1983), and cases cited therein. In the present case, appellant has not raised any valid reasons to reject conflicting lease offer ES-19550. Accordingly, we conclude that BLM properly rejected noncompetitive oil and gas lease offers ES-25844 and ES-25845. ^{4/}

Pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Will A. Irwin
Administrative Judge

^{3/} 43 CFR 3102.7 (1977) provided, in relevant part, that offers include: "A signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; if not he shall set forth the names of the other interested parties."

^{4/} No appeal was filed by Blumenstein from the June 1983 BLM decision. Accordingly, as to the interest of Blumenstein in lease offers ES-25844 and ES-25845, the BLM decision was final. 43 CFR 4.411.

